

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROSALIND D. HARRIS and)
BETTIE J. HARRIS,)
Plaintiffs,)
v.) No. 4:22-CV-01246-NCC
AT&T, INC.,)
Defendant.)

MEMORANDUM AND ORDER

This matter comes before the Court on its own motion. Self-represented Plaintiffs Rosalind D. Harris and Bettie J. Harris have paid the filing fee in this case. Because Plaintiffs paid the full filing fee, they are responsible for properly serving Defendant AT&T, Inc. pursuant to Rule 4 of the Federal Rules of Civil Procedure. Plaintiffs have not properly served Defendant.

To serve Defendant with a summons, Plaintiffs must submit to the Clerk of Court:

- 1) a file-stamped copy of the complaint;
- 2) a completed summons form (AO Form 440); and
- 3) a completed “Notice of Intent to Use Private Process Server” form.

See Fed. R. Civ. P. 4(b); E.D. Mo. L.R. 2.02(B). The “Notice of Intent to Use Private Process Server” form must include the name and address of the process server who will be serving Defendant. “Any person who is at least 18 years old and not a party may serve a summons and complaint.” *See Fed. R. Civ. P. 4(c)(2).* Plaintiffs must complete these forms and return them to the Clerk’s Office. Once Plaintiffs submit these forms, the Clerk’s Office will sign and seal the summons and return it to Plaintiffs. The summons must then be served upon Defendant by an appropriate server; and return of service must be filed with the Court.

In this case, Plaintiffs attempted to use the Missouri Secretary of State's Office as their process server and did not file a server's affidavit (Docs. 2, 5). **Plaintiffs must use an appropriate private process server and file the server's affidavit as their proof of service.**

See Fed. R. Civ. P. 4(l)(1) ("Unless service is waived, proof of service must be made to the court. ... [P]roof must be by the server's affidavit.").

Plaintiffs may also wish to consider the Missouri Secretary of State's Service of Process Checklist as a resource. The Checklist indicates service of an active corporation requires proof of prior attempted service upon the registered agent. *See Mo. Sec'y of State, Serv. of Process, <https://www.sos.mo.gov/serviceofprocess>* (last visited March 21, 2023). For additional guidance, Plaintiffs should review Federal Rule of Civil Procedure 4(h) regarding serving a corporation and the remaining provisions of Federal Rule of Civil Procedure 4.

The Court will order that Plaintiffs properly serve Defendant within thirty (30) days from the date of this order. *See Fed. R. Civ. P. 4(m) ("If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.").* Failure to properly serve Defendant will result in the dismissal of Plaintiffs' claims without prejudice, unless Plaintiffs demonstrate good cause for the failure.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall send to Plaintiffs: (i) a file-stamped copy of the complaint; (ii) a summons form; and (iii) a "Notice of Intent to Use Private Process Server" form.

IT IS FURTHER ORDERED that Plaintiffs serve Defendant **no later than thirty (30) days from the date of this order**. In the absence of good cause shown, failure to timely serve Defendant will result in the dismissal of Plaintiffs' claims without prejudice.

Dated this 23rd day of March, 2023.

/s/ Noelle C. Collins

NOELLE C. COLLINS
UNITED STATES MAGISTRATE JUDGE